

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.622 of 1982

- =====
1. Sri Jagdambi Singh.
 2. Sri Jadunandan Singh.
 3. Sri Raghuni Singh @ Raghubar Singh.
 4. Sri Ramdeo Singh.
 5. Sri Hridey Narain Singh, all sons of late Sri Dhanik Singh.
 6. Srimati Banarsi Devi wife of late Sri Sukhdeo Singh,
 7. Sri Ramanuj Singh son of late Sri Jagdish Singh, all residents of village-Dularpur, Naya Tola, P.O. and P.S. Teghara, District-Begusarai.

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. SRI NANDAN PRASAD SING
Mr. Murari Nr.Choudhary
Mr. S.P.Singh
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 31-07-2012

The interlocutory application (I.A. No. 4829 of 2012) is allowed and heirs and legal representatives of the deceased appellant nos. 1, 2 and 3 are substituted in his place after expunging their name from the memo of appeal. All the heirs and legal representatives have appeared in this appeal by filing Vakalatnama.

2. Heard the learned counsel for the parties on the merits of the appeal.

3. This appeal has been filed against the judgment and award dated 31.08.1989 passed by Sub-Judge, Begusarai in Land

Acquisition Case No. 04/87 of 1980/1981 by which the appellant's claim for enhancement of the amount of compensation in L.A. Case No. 56/70-71 leading to reference under Section 18 of the Land Acquisition Act, has been dismissed.

4. The appellants in this appeal are the persons whose 1.48 acres of land of plot no. 11399 of Khata no. 2125 and 77 decimal of land of plot no. 786 of Khata no. 1146 has been acquired by the respondents under the provision of Land Acquisition Act, in L.A. Case No. 56/70-71. The amount of compensation has been ascertained to be 1,29,833.11 paise. In their objection the appellants have claimed that the acquired land is located in between the Teghra Market and Teghra Railway Station and has potentiality for use for building purpose. As such its valuation should have been fixed at much higher rate. It is the further case of the appellants that the valuation of the lands in the vicinity is at the rate of 80,000/- per acre but claiming the valuation at Rs. 62,500/- per acre, appellants have claimed Rs. 1,40,937.50 paise besides interest as the total amount of compensation.

5. The respondent State of Bihar has contested the claim of the appellants and supported the valuation of the land as determined in the land acquisition proceeding.

6. The learned court below after considering the

evidence adduced by the parties has come to the finding that the appellants have failed to substantiate the valuation as claimed by them in their objection. It has further come to the finding that the valuation of the land as determined in the award was the correct valuation and the reference case had been dismissed by the impugned judgment and award.

7. The learned counsel appearing on behalf of the appellants has submitted that the learned court below has not properly considered documentary as well as the oral evidence adduced on behalf of the appellants. It has been urged by the learned counsel that the sale deeds Ext. 1 and 1/A adduced as evidence on behalf of the appellants relate to the lands in the vicinity and the valuation shown in those sale deeds clearly establishes that the valuation of the acquired land should have been fixed at much higher rate. The learned counsel has further placed the deposition of the witnesses in support of his contention.


8. The learned counsel for the respondents State of Bihar however has supported the impugned judgment. It has been urged that no material evidence has been produced by the appellants to substantiate his case and the relevancy of the two sale deeds has also not been established. The reliability of the oral evidence of the appellants has also been challenged and it has been asserted that the

witnesses examined on behalf of the appellants are not competent persons on the issue of valuation of the acquired land.

9. In view of the rival contentions of the parties the points for determination in this appeal are with regard to the valuation of the land under acquisition and the sustainability of the impugned judgment and decree on facts as well as in law.

10. The appellants in their objections have claimed that the acquired land lies in between Teghra Bazar and Teghra Railway Station and therefore it has higher potentiality for developing into building sites. The witnesses examined on behalf of the appellants also support the fact that the land lies in between Teghra Bazar and Teghra Railway Station. This fact has not been disputed by the respondent State of Bihar but it has, nonetheless, been maintained that the valuation of the acquired land has been ascertained after considering all the relevant facts.

11. On behalf of the appellants the reliance has been placed upon two sale deeds (Ext. 1 and 1/A) to show the valuation of the land in the vicinity. These sale deeds, though relate to a smaller area of land but definitely show a higher valuation. But the crucial evidence regarding the proximity of the lands subject matter of the sale deeds Ext. 1 and Ext. 1/A to the acquired land is absent. In their deposition also the appellants have failed to describe the



location and position of the lands covered by the sale deeds Ext. 1 and Ext. 1/A to the acquired lands. There is no other evidence to establish the vicinage of the lands sold by Ext. 1 and 1/A to the acquired land. Therefore, those sale deeds cannot be relied with confidence to ascertain the valuation of the land. There is no other documentary evidence adduced on behalf of the appellants to establish the valuation of the acquired land. The witnesses examined on behalf of the appellants do not appear to have reliable knowledge of the valuation of the acquired land.

12. The respondent has produced the valuation khatiyan (Ext.-A) and rate chart (Ext.-B). These documents reveal that the rate of the acquired land has been ascertained after considering various sale deeds relating to the lands in the area. Further, the O.P.W.-1, who is surveyor in the land Acquisition Department, has satisfactorily explained the process of fixing the valuation and has further also stated that the acquired land has been divided in two parts for the purpose of valuation keeping in view the adjacency to the road.

13. In view of the aforesaid discussion, it is held that the appellants have failed to substantiate their claim for higher valuation of the acquired land by leading cogent and material evidence. The learned court below has screened the evidence of the

parties and has rightly come to the finding that the valuation of the land has been fixed correctly.

14. In the result, I do not find any merit in this appeal which is, accordingly, dismissed. The judgment and award under appeal is upheld.

Devendra/-

(V. Nath, J)